

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: GENERIC PHARMACEUTICALS
PRICING ANTITRUST LITIGATION

MDL 2724
16-MD-2724

THIS DOCUMENT RELATES TO:

ALL ACTIONS

HON. CYNTHIA M. RUGE

ORDER

AND NOW, this 12th day of April 2023, upon consideration of the attached Joint Stipulation Concerning Protocol for Conferences during Certain Depositions, which incorporates the informal recommendation of the Special Discovery Master, it is hereby **ORDERED** that the Joint Stipulation is **APPROVED**.

IT IS SO ORDERED.

BY THE COURT:

/s/ Cynthia M. Rufe

CYNTHIA M. RUGE, J.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: GENERIC PHARMACEUTICALS
PRICING ANTITRUST LITIGATION

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MDL No. 2724
Case No. 2:16-MD-02724

Hon. Cynthia M. Rufe

**JOINT STIPULATION CONCERNING
PROTOCOL FOR CONFERENCES DURING CERTAIN DEPOSITIONS**

WHEREAS, Cooperating Witnesses (“CWs”) 1 and 4 have expressed a concern that their deposition testimony may have criminal implications, given their status as cooperating witnesses in this Multi-District Litigation (“MDL”) and the existence of parallel criminal proceedings; and

WHEREAS, the aforementioned concerns may cause CWs 1 and 4 to want to consult with their counsel during their deposition testimony; and

WHEREAS, in light of precedent in this District and practice to date in this Multi-District Litigation limiting conferences between deponents and counsel during depositions – specifically, *Hall v. Clifton Precision*, 150 F.R.D. 525 (E.D. Pa. 1993) – CW-1 and CW-4 moved to permit, during breaks and recesses of their depositions, communications with their own counsel concerning the subject matter of the deposition for the purpose of seeking and receiving legal advice relating to the criminal proceedings, and for those communications to remain protected by the attorney-client privilege; and

WHEREAS, CWs 1 and 4 and the Defendants brought the issue to Special Master Merenstein, who on January 17, 2023 issued an informal report and recommendation; and

WHEREAS, CWs 1 and 4 and the Defendants (each a “Party” and collectively the “Parties”) have agreed to accept the informal report and recommendation, subject to, in light of *Hall*, the Court issuing an Order confirming the recommended protocol; and

WHEREAS, the stipulated order below duplicates Special Discovery Master Merenstein’s informal report and recommendation verbatim; and

WHEREAS, the Parties have further agreed that recesses that extend beyond overnight (*i.e.*, for a day or longer) shall be treated the same as an overnight recess; and

WHEREAS, the Parties reserve all rights in connection with any matter not addressed by Special Discovery Master Merenstein in connection with the above-described discovery dispute.

NOW THEREFORE, pursuant to Local Rule 7.4(b), the Parties hereby stipulate to the following:

1. Counsel for CW-1 and CW-4 is prohibited from consulting with the deponent, except to determine whether a privilege should be asserted, during any break or recess in the witnesses’ depositions other than any overnight recess.

2. Counsel for CW-1 and CW-4 may consult with the deponent during any overnight recess regarding the potential criminal implications of the deponent’s testimony.

3. Upon resumption of a deposition after an overnight recess, questioning counsel may inquire of the deponent regarding any consultation with counsel in order to place on the record that the witness consulted with counsel and to establish the subject-matter and nature of any such discussions, but may not inquire into the specifics of any privileged communications.

IT IS SO STIPULATED.

Dated: April 11, 2023

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